

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

KAREN DARKE as the Administratrix of the
ESTATE OF JUSTIN C. ZINNO and in her
Individual Capacity as the beneficiary of
JUSTIN C. ZINNO, a deceased seaman

Plaintiff,

v.

Case No.: 1:21-cv-00158-JJM-PAS

JAMES MATARONAS, in personam,
BRUCE R. MEDEIROS, in personam,
and the f/v SAKONNET LOBSTER II, its
engines, electronics, fishing gear and
permits and appurtenances, in rem

Defendants.

**MOTION (*ex parte*) WITH INCORPORATED MEMORANDUM
OF LAW FOR ORDER DIRECTING ISSUANCE OF
WARRANT FOR MARITIME ARREST IN REM¹**

COMES NOW Plaintiff Karen Darke as the duly appointed personal
representative of the Estate of Justin C. Zinno, a deceased seaman, and in her
individual capacity as the natural parent of decedent Justin C. Zinno, pursuant to Rule C
of the Supplemental Rules for Admiralty and Maritime Claims, Fed. Rule Civ. P. and the
Local Admiralty Rules, and files her Motion for Order Directing Issuance of a Warrant for
Maritime Arrest In Rem.

1. On April 7, 2021, Plaintiff filed her Verified Complaint with the Clerk of the
United States District Court for the District of Rhode Island. [Dkt. 1] In the Verified

¹ Plaintiff voluntarily dismissed Bruce R. Medeiros from this action without prejudice on 4/20/2021.

Complaint, Plaintiff alleges causes of action in rem arising from the death of seaman Justin C. Zinno sustained in the course of his employment as a crewmember aboard the Defendant vessel identified as the f/v SAKONNET LOBSTER II.

2. Rule C(3) of the Supplemental Rules For Admiralty Or Maritime Claims states in pertinent part:

(3) Judicial Authorization and Process.

(a) *Arrest Warrant.*

(i) The court must review the complaint and any supporting papers. If the conditions for an in rem action appear to exist, the court **must** issue an order directing the clerk to issue a warrant for the arrest of the vessel or other property that is the subject of the action. [Emphasis added].

3. Plaintiff anticipates the Court will review the Verified Complaint prior to the Clerk issuing a Warrant for Maritime Arrest. Accordingly, and as set forth in detail in her Verified Complaint, Plaintiff submits probable cause exists for an action in rem allowing her to arrest and seize the f/v SAKONNET LOBSTER II its engines, electronics, fishing gear and permits and appurtenances, in rem, (hereinafter "Vessel"). See e.g., Merchants Nat'l. Bank v. Dredge General G.L. Gillespie, 663 F.2d 1338, 1347 fn. 8 (5th Cir. La. 1981) ("For centuries, the ability to proceed in the Admiralty Court directly against a ship has been the distinguishing feature of the Admiralty jurisdiction.")

4. Plaintiff's request for ex parte relief is appropriate and customary because no notice other than the execution of process is required unless the vessel is not released from seizure within ten (10) days. See, e.g., Fed. Rule Civ. P. C(6); BENEDICT ON ADMIRALTY § 3.02[B][1] at 3-20 (2008). That is, the Fed. Rule Civ. P. speaks in terms of "must" with any opposition to the vessel's arrest to be addressed *after* the arrest.

Further, notice of her motion seeking issuance of the warrant of arrest may impend or otherwise frustrate Plaintiff's ability to pursue the arrest of the Vessel.

For the reasons set forth in the accompanying memorandum and based on the pleadings and proceedings herein, Plaintiff respectfully moves the Court to issue an Order directing the Clerk of Court to issue a Warrant for Maritime Arrest In Rem of the f/v SAKONNET LOBSTER II its engines, electronics, fishing gear and permits and appurtenances, in rem

A proposed form of Order and Warrant accompany this motion.

Per LR Cv 7(c), no oral argument and/or an evidentiary hearing is sought.

Dated: April 30, 2021
Newport, Rhode Island

Fulweiler llc

By: /s/ John K. Fulweiler

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CERTIFICATE OF SERVICE

I certify that on April 30, 2021, I electronically filed the foregoing using the CM/ECF system. I have also emailed the foregoing document to the U.S. Marshal for the District of Rhode Island.

/s/ John K. Fulweiler

John K. Fulweiler